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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 PHILLIP ANGELO TODD,

No. 2:05-cv-00043 MCE JFM (HC)

12 Petitioner,

13 vs.

ORDER

14 MARK SHEPPARD, Warden,

15 Respondent.
16 _____/

17 Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this
18 court's May 19, 2009 denial of his application for a writ of habeas corpus. Before petitioner can
19 appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App.
20 P. 22(b).

21 A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has
22 made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The
23 court must either issue a certificate of appealability indicating which issues satisfy the required
24 showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).


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1 For the reasons set forth in the magistrate judge's February 26, 2009 findings and
2 recommendations, petitioner has not made a substantial showing of the denial of a constitutional
3 right. Accordingly, a certificate of appealability should not issue in this action.

4 IT IS SO ORDERED.

5 Dated: June 5, 2009

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7 MORRISON C. ENGLAND, JR.
8 UNITED STATES DISTRICT JUDGE
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